

# DEPARTMENT OF PLANNING & ENVIRONMENT

*Development Assessment Systems & Approvals*

## **SUBJECT: MODIFICATION REQUEST, CONCEPT APPROVAL FOR MORUYA EAST VILLAGE (MP06 0322 MOD 1)**

### **1. PURPOSE**

To determine a modification request to extend the lapsing date of the concept approval for the Moruya East Village from 10 May 2014 to 10 May 2018.

This amendment is sought as physical commencement of the development at the site cannot commence within the current lapsing period.

### **2. MODIFICATION DESCRIPTION**

On 1 April 2014, National Australia Bank (NAB) submitted a request to modify the Part 3A concept approval pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). NAB is the mortgagee in possession of the land subject of the concept approval, being Lots 1 to 4 DP1164518 (refer **Tag B**).

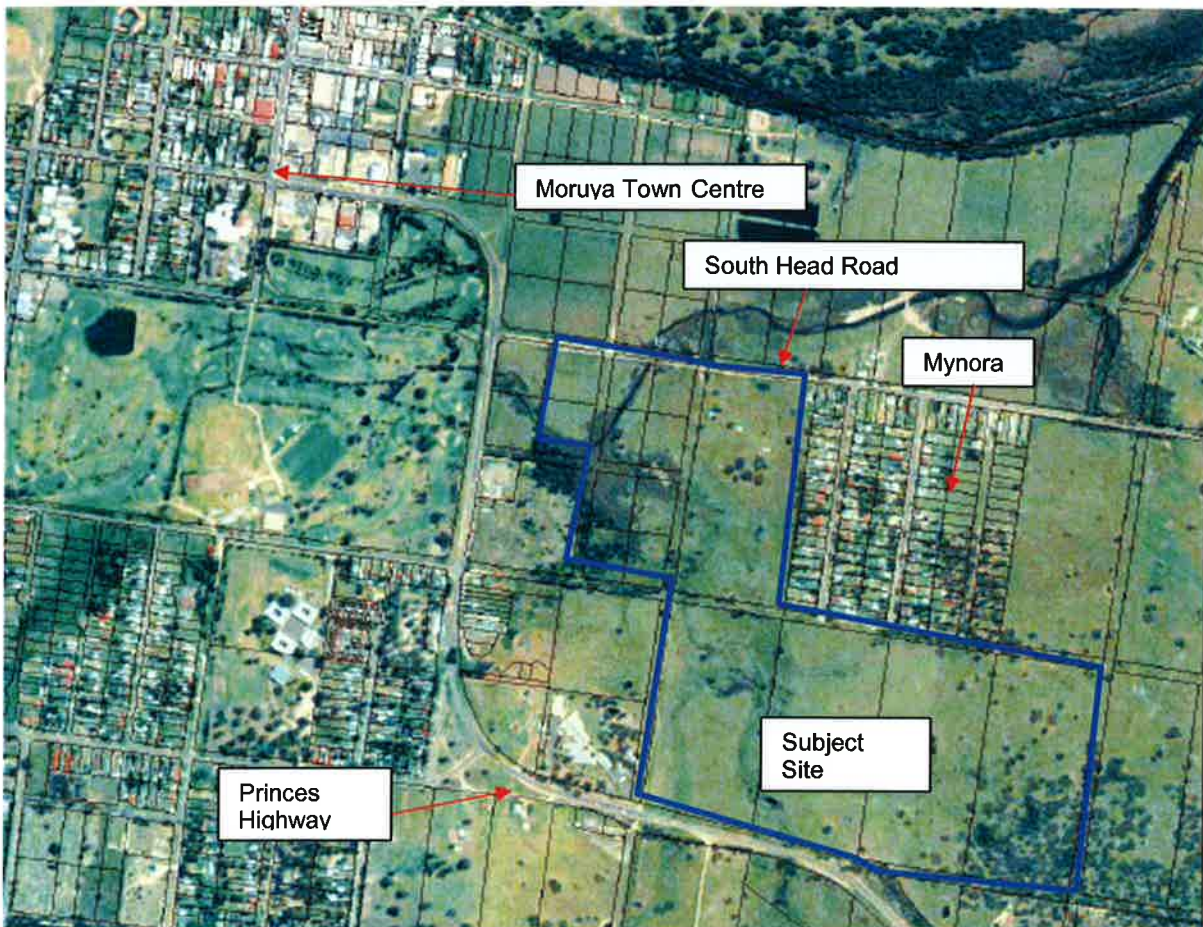
NAB seeks to amend term A5 - Lapsing of Approval, to extend the current lapse date of the project approval to 10 May 2018. At present, the concept approval is liable to lapse after five years from the date of determination (10 May 2014) unless stage 1 (being the seniors living component) is approved and physically commenced.

### **3. THE SITE**

The subject site is located on the outskirts of the town of Moruya, approximately 0.5km to the east of the Princes Highway on the south coast of New South Wales. The Princes Highway is the main road accessing the south coast. Moruya is approximately 300km south of Sydney (refer **Figures 1 and 2**).



**Figure 1 – Site Location**



**Figure 2: Site Location Plan**

## **4. PREVIOUS APPLICATIONS**

### **4.1 Ministerial Determinations**

On 10 May 2009, the then Minister for Planning approved a concept plan (06\_0322) for a housing estate which included the following:

- Subdivision of the site into 17 Torrens title residential allotments and one super lot;
- Subsequent subdivision of the super lot into 70 Torrens title residential allotments;
- 443 dwellings for housing for older people and people with a disability development; and
- Roads, including access roads, internal private roads and upgrade to the intersection of South Head Road and the Princess Highway.

The approved concept plan layout is illustrated in **Figure 3**. The concept approval instrument requires numerous modifications to this plan to address a number of matters, including scale and character, consistency with strategic planning for the area, amenity, public transport access, appropriate traffic management and ecological issues (refer **Tag C**).

Concurrently with the concept plan approval, a project application for Stage 1 of the seniors living component was refused because of the number of modifications required in the concept approval for this component of the development.

### **4.2 Council Determinations**

On 24 February 2011, Eurobodalla Shire Council approved a staged 42 residential lot subdivision in the north western part of the site. Construction has commenced.





## 5. MODIFICATION JUSTIFICATION

NAB has requested an extension to the lapsing date to 10 May 2018 to enable time for a potential purchaser of the land to gain approval for and commence the seniors living component of the concept plan. As the concept plan approval instrument requires numerous changes to the concept plan specifically as they relate to the seniors living component, any new landowner would need sufficient time to review the terms of the concept plan approval, make the required changes, seek approval of subsequent development applications and construction certificates and commence construction. NAB considers this process may take up to 4 years.

## 6. CONSULTATION

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the department's website. Due to the minor nature of the modification request, the modification was not exhibited by any other means.

However, the modification request was referred to Eurobodalla Shire Council. Council supports the extension to the lapsing date.

## 7. STATUTORY CONTEXT

### 7.1 Modification of the Minister's Approval

Approval of the concept plan (06\_0322) was granted in accordance with Part 3A under section 75J of the EP&A Act. Section 75W of the EP&A Act provides for the modification of the Minister's approval. Pursuant to Section 75W(2) of the EP&A Act, the proponent may request the Minister to modify the approval of a project. Any request is to be lodged with the Department of Planning & Environment.

Section 75W(3) of the EP&A Act provides that the Secretary may notify the proponent of environmental assessment requirements (EARs) with respect to the proposed modification. Following an assessment of the modification request, it was considered that EARs were not required.

Under Section 75W(4) of the EP&A Act, the Minister may modify the approval (with or without conditions) or disapprove the modification.

The following report describes the department's assessment of the modification request and supporting documentation provided by the proponent.

### 7.2 Delegated Authority

On 14 September 2011, the Minister for Planning delegated responsibility for the determination of concept plan and project applications under Part 3A of the *Environmental Planning and Assessment Act 1979* to the Planning Assessment Commission (PAC). This delegation to the PAC applies where:

- the local council has made an objection;
- a political donation disclosure statement has been made; or
- there are 25 or more public submissions received in the nature of objections.

The proposal complies with the terms of the delegation. The application is being referred to the PAC for determination as NAB has made a political donation disclosure statement (refer **Tag D**).

## 8. KEY ISSUES

### Lapsing Date

Term A5 of the concept approval states that the concept approval will lapse 5 years from the date of determination of the concept plan (10 May 2009) if stage 1 (being the seniors living component) has not been approved and commenced. The lapsing provision is tied to the commencement of the seniors living component, rather than any part of the concept plan, as the seniors living component



of the project comprises the bulk of the concept plan (443 dwellings of a total of 513 dwellings, Village Square and other associated buildings).

The proponent seeks to amend the lapsing date of the concept plan from 10 May 2014 to 10 May 2018. The extended date will allow a potential purchaser to carry forward the seniors living development under the current concept plan approval, having regard for the numerous changes required by the concept plan approval instrument. Any future development applications will be assessed by council.

It is considered reasonable that the time period for sale of the land, review of the concept plan and subsequent approvals for the seniors living component may take up to 4 years, as outlined by the proponent. Furthermore, even though the residential component of the concept plan has commenced, it is considered appropriate to retain the connection between the lapsing date provisions and the commencement of the seniors living component of the concept plan as the bulk of the concept plan relates to the seniors living development. Furthermore, the department supports the concept of seniors housing in this location as the locality has an ageing demographic (with approximately 30% of the population in Eurobodalla aged 60 years and over), and as such, the department considers it is important this part of the concept plan is realised to assist in the provision of adequate seniors housing on the South Coast.

The department also notes that there are no other changes to the approval in this modification. The approval would merely allow an extension of time for the development of this site.

The department considers the proposal, as modified, achieves the same objectives as assessed under the original approval. It is therefore recommended that the modification request be **approved**.

## 9. RECOMMENDATION

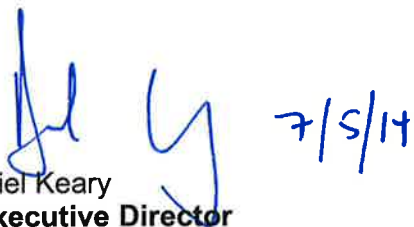
It is RECOMMENDED that the Planning Assessment Commission:

- note the information provided in this briefing;
- approve the modification request, and
- sign the attached modifying instrument (**Tag A**).

Endorsed by:

  
Chris Ritchie  
**A/Director**

**Industry, Key Sites and Social Projects**

  
Daniel Keary  
**A/Executive Director**

**Development Assessment Systems and Approvals**

## **APPENDIX A    RECOMMENDED MODIFYING INSTRUMENT**

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a disability on the allotment to be the subject of Community title subdivision.

- The 443 dwellings for older people and people with a disability comprises:
  - 120 hostel beds within a Dementia facility,
  - 48 apartments contained in three (3) apartment buildings in the "Village Square",
  - 24 apartments contained within four (4) "Manor Buildings", and
  - 141 terrace style dwellings and 110 courtyard style dwellings.

#### Other

- Other components proposed within the housing for older people and people with a disability are the Botanica Building, the ground level uses within the Village Square buildings, landscaping, an outdoor pool, tennis courts and a sewer pumping station.
- The Botanica Building proposes to contain an indoor pool, yoga studio, gym, six (6) massage/treatment rooms, a spa, reception, showers, amenities, restaurant, bar, lounge, theatre, 8 visitor accommodation rooms and administration offices.
- The ground level uses of the Village Square proposes a library/meeting room/reading room, gallery/museum, professional suites, restaurant, post office, convenience store, sports bar, café, sub-newsagency, management/administration, staff amenities and storage

#### **Modification:**

06\_0322 MOD 1 comprising an extension to the lapse date.

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### **SCHEDULE 2**

The Concept approval described in Schedule 1 is modified as followed:

1. **In schedule 1, delete the final row from Part A – Table, which states:**

"Date Approval is liable to lapse: 5 years from the date of determination."

2. Delete term A5 and replace with new term A5 as follows:

#### **A5 *Lapsing of Approval***

This approval shall lapse on 10 May 2018 unless Stage One of the proposal (being the Seniors Living Component) has been approved and commenced.

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End of Modification MP06\_0322 (MOD1)

# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under the instrument of delegation executed on 14 September 2011, we approve the modification of the concept plan referred to in schedule 1, subject to the modified conditions in Schedule 2.

**Member of the Commission**

**Member of the Commission**

Sydney

2014

### SCHEDULE 1

**Concept Approval:**

06\_0322 granted by the then Minister for Planning on 10 May 2010

**For the following:**

A housing for older persons and disabled persons development and residential subdivision comprising:

#### Subdivision

- Initial subdivision of the site to create seventeen (17) Torrens title residential allotments and one super lot.
- It is intended to further subdivide the super lot to create a total of 70 Torrens title residential allotments of various sizes.
- Remaining Torrens title allotment (size now unknown as the subdivision plan has not been updated) is to be the subject of a housing for older people and people with a disability development.

#### Roads

- Concept plan seeks identifies the location of proposed roads, with one (1) road to be a public road (Albert Street) and the remaining roads, to be private roads.
- Entrance to the site from the Princes Highway has been replaced with a gated emergency access road.
- Main access to the site is proposed via a series of eleven (11) road and lane connections proposed along Albert Street and through Keightley and Maunsell Streets to South Head Road.
- Intersection of South Head Road and the Princes Highway to be upgraded into a traffic light controlled intersection.

#### Dwellings

- Concept approval is sought for :
  - A total of 513 dwellings comprising 70 dwellings on the Torrens title lots and 443 dwellings for older people and people with